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Dated: July 30, 2002

Signature: *Shawn P. Foley*

(Shawn P. Foley)

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GROUP 1600

Docket No.: OCIRS 3.3-073
(PATENT)

#5

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Turner et al.

Application No.: 09/936,454

Group Art Unit: 1638

Filed: September 13, 2001

Examiner: Not Yet Assigned

For: TRANSGENIC PLANTS HAVING
IMPROVED FLAVOR PROPERTIES

PETITION UNDER RULE 1.78

Commissioner for Patents
Washington, DC 20231

Dear Sir:

Pursuant to 37 C.F.R. §1.78(a)(3), Applicants hereby request entry of a Preliminary Amendment filed of even date herewith (copy attached), which introduces into page 1 of the specification, the priority information (under §§119(e) and 371) that is contained in the Declaration.

Applicants submit that the entire delay between the date the claim was due as required by 37 C.F.R. §1.78(a)(2), and today's date was unintentional. 37 C.F.R. §1.78(a)(3)(ii).

The Commissioner is authorized to charge the surcharge set forth in §1.17(t) to Applicants' Deposit Account No. 12-1095. However, being that the priority information is set forth in the Declaration filed with the Application, and that this Petition is being filed prior to any action on the merits, and thus will not create any delay in or unnecessarily prolong prosecution, Applicants respectfully request waiver of the surcharge.

Adjustment date: 08/27/2002 AKELLEY
08/06/2002 GPAYNE 00000004 121095 09936454
01 FC:122 130.00 CR

08/06/2002 GPAYNE 00000004 121095 09936454

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OFFICE OF PETITIONS

Application No.: 09/936,454

Docket No.: OCIRS 3.3-073

Favorable consideration and granting of this Petition is respectfully requested.

Dated: July 30, 2002

Respectfully submitted,

By Shawn P. Foley
Shawn P. Foley
Registration No.: 33,071
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090

(908) 654-5000
Attorneys for Applicant

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